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NEWS REPORT

Country:	Belgium
Title:	The CJEU rendered its judgment in the Belgian <i>Achbita</i> case concerning the ban of religious symbols at work
Date	5 April 2017
Expert:	Bribosia Emmanuelle
<u>Context</u>	
Issue at stake:	May a private employer ban the wearing of religious symbols at work?
Ground of discrimination:	Religion
Source:	CJEU (Grand Chamber), <i>Samira Achbita, Centrum voor gelijkheid van kansen en voor racismebestrijding v. GAS Secure Solutions NV</i> , 14 March 2017, case C-157/15, ECLI:EU:C:2017:203
Field:	Employment
Applicable law:	Directive 2000/78 and Federal General Anti-discrimination Law 2007

Content

Case: Mrs. Achbita, a Muslim woman, had been employed since 2003 as a receptionist by a private security company, G4S. In 2006, Mrs Achbita informed her employer that she wanted to start wearing the Islamic veil. According to the company, an unwritten internal rule was banning the wearing of religious signs in the company, because of its alleged neutrality. G4S recalled its internal rule and wrote this prohibition in the formal working rules of the company. Nevertheless, the employee decided to wear the Islamic veil. She was dismissed by G4S because she had infringed the internal working regulations. The Belgian Court of Cassation referred for a preliminary ruling to the CJEU to ask whether this dismissal based on the ban to wear religious, philosophical or political symbols at work was lawful regarding the directive 2000/78 which prohibits, inter alia, discrimination on grounds of religion.

Decision of the Court: The CJEU considered that the general ban of wearing religious symbols did not constitute a direct discrimination since it was applicable to all employees regardless of their religion. It nevertheless stressed that it could constitute an indirect discrimination if it was demonstrated that a particular religion was more disadvantaged by this measure. If the proof of this disadvantage is noticed by the national judge, the measure may however be lawful if it pursues a legitimate aim and if it is proportionate to that aim. The CJEU underlined that a general ban of the wearing of religious symbols could be justified by the aim of a company to develop a neutrality policy as it relates to its freedom to conduct a business, protected by art. 16 of the EU Charter of Fundamental Rights. The CJEU moreover considered that it could be proportionate if it only applied to employees in contact with clients and provided that the employer tried to offer another position to the employee, where she/he would not be in contact with clients.

Currently in Belgium, the Inter-federal Centre for equal opportunities, UNIA, has opened 79 files concerning Muslim people complaining of being discriminated on the Belgian labour market.

Key point of analysis:

- Direct and indirect discrimination
- Freedom to conduct a business v. freedom of religion
- Neutrality of a company

Internet link source: <http://curia.europa.eu/juris/liste.jsf?num=C-157/15>.